

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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PHYLLIS KAHN, MARK KAPLAN,  
BERT BLACK, ANN L. BERGET, PERICLES  
C. CARANICAS, and  
VERNON WETTERNACH,

Civil No. 03-5037 (JRT/FLN)

Plaintiffs,

v.

SUSANNE GRIFFIN, City of Minneapolis  
Director of Elections; THE CITY OF  
MINNEAPOLIS, MINNESOTA, a municipal  
corporation; and MINNEAPOLIS CITY  
COUNCIL MEMBERS PAUL ZERBY,  
DONALD SAMUELS, BARBARA JOHNSON,  
NATALIE JOHNSON LEE,  
DEAN ZIMMERMANN, LISA GOODMAN,  
ROBERT LILLIGREN, GARY SCHIFF,  
DANIEL NIZIOLEK, SCOTT BENSON,  
SANDRA COLVIN-ROY, BARRET LANE,  
and PAUL OSTROW,

**ORDER**

Defendants.

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Alan W. Weinblatt and Maura J. Shuttleworth, **WEINBLATT & GAYLORD, PLC**, 111 East Kellogg Boulevard, Suite 300, St. Paul, MN 55101, and David Schultz, **HAMLIN UNIVERSITY**, 1536 Hewitt Avenue, St. Paul, MN 55104, for plaintiffs.

James A. Moore, Assistant City Attorney, **OFFICE OF THE CITY ATTORNEY**, 300 Metropolitan Centre, 333 South Seventh Street, Minneapolis, MN 55402, for defendants.

**INTRODUCTION**

Plaintiffs Phyllis Kahn, Mark Kaplan, Bert Black, Ann L. Berget, Pericles C. Caranicas, and Vernon Wettternach (collectively “plaintiffs”) brought suit against

defendants Susanne Griffin, Director of Elections for the City of Minneapolis; the City of Minneapolis; and Minneapolis City Council members Paul Ostrow, Paul Zerby, Donald Samuels, Barbara Johnson, Natalie Johnson Lee, Dean Zimmerman, Lisa Goodman, Robert Lilligren, Gary Schiff, Daniel Niziolek, Scott Benson, Sandra Colvin-Roy, and Barret Lane (collectively “defendants”) alleging that the City Council redistricting plan for the City of Minneapolis violates the United States and Minnesota Constitutions as well as several state laws and local regulations. In an Order dated July 20, 2004, the Court granted defendants’ motion for summary judgment and denied plaintiffs’ motion for summary judgment with respect to plaintiffs’ federal Constitutional claims (counts I, II, and VII). *Kahn v. Griffin*, 2004 WL 1635846, (D. Minn. July 20, 2004).

The Court certified to the Minnesota Supreme Court the question of whether the the Minnesota Constitution provides greater protection to the right to vote than does the United States Constitution such that failure to hold prompt elections following decennial redistricting violates (a) the Minnesota Constitution and/or (b) Minnesota Statutes §§ 204B.135, subd. 1 and 204B.14, subd. 1a. *See id.* The Court stayed resolution of the parties’ motions with respect to plaintiffs’ remaining state constitutional and statutory claims (counts III, IV, V, and VI) pending the Minnesota Supreme Court’s response to the certified question. *Id.* On August 11, 2005, the Minnesota Supreme Court answered the Court’s certified question in the negative holding that, in this case, “the Minnesota Constitution does not provide greater protections to the right to vote than does the U.S. Constitution, and that the City of Minneapolis’s failure to hold prompt elections following decennial redistricting does not violate either the Minnesota Constitution or

Minn. Stat. §§ 204B.135, subd. 1, and 204B.14, subd. 1a.” *Kahn v. Griffin*, 2005 WL 1904282, at \*17 (Minn. Aug. 11,2005).

In light of the holding of the Minnesota Supreme Court, and this Court’s previous determination that plaintiffs have failed to demonstrate a violation of the United States Constitution, the Court now grants defendants’ motion for summary judgment and denies plaintiffs’ motion for summary judgment with respect to counts III, IV, V, and VI.

### **ORDER**

Based on the foregoing, all the records, files, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiffs’ Motion for Summary Judgment [Docket No. 19] is **DENIED** as to Counts III, IV, V, and VI;
2. Defendants’ Motion for Summary Judgment [Docket No. 16] is **GRANTED** as to Counts III, IV, V, and VI;
3. Counts III, IV, V, and VI of the Complaint [Docket No. 1] are **DISMISSED** with prejudice.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

DATED: September 8, 2005  
at Minneapolis, Minnesota.

s/ John R. Tunheim  
JOHN R. TUNHEIM  
United States District Judge